

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

COMMON GROUND HEALTHCARE
COOPERATIVE,

Plaintiff,
on behalf of itself and all others
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

No. 1:17-cv-00877-KCD
(Judge Davis)

JOINT STATUS REPORT

Pursuant to this Court's January 23, 2023 Order, the parties submit this joint status report. On June 21, 2021, the United States Supreme Court denied Plaintiff Common Ground Healthcare Cooperative's petition for a writ of certiorari (No. 20-1200) seeking review of the Federal Circuit's September 30, 2020 decision entering judgment consistent with the Federal Circuit's decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020). The Supreme Court also denied the Government's conditional cross-petition for certiorari regarding the same (No. 20-1536). *See* Orders List (U.S. June 21, 2021). Additionally, on that same day, the Court denied the petition for writ of certiorari and the Government's conditional cross-petition in *Maine Community Health Options v. United States* (No. 20-1162), which also sought review of the Federal Circuit's August 14, 2020 decision. *See* Orders List (U.S. June 21, 2021).

On January 23, 2023, the Court held a status conference in this and other CSR cases before it. There the parties described their settlement efforts in some detail. The Court encouraged the parties to redouble their efforts and indicated that it was not inclined to extend a stay beyond July 2023. By order entered that same day, the parties are to file their next joint status report by March 10, 2023.

The parties' resolution efforts are continuing at this time, and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time a joint status report will be filed. At present, Class counsel, as well as attorneys representing other plaintiff health plans, are engaged with counsel for the Government in talks regarding potential avenues for resolving the CSR matters. Specifically, the parties are working to develop proposals and methodologies that could resolve the damages and mitigation issues in the CSR cases without further litigation or streamline resolution of these cases. On December 3, 2021, counsel for a large number of plaintiff health plans shared a proposal with the Government. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. The parties participated in a settlement-related call on September 1, 2022. Plaintiffs sent follow up correspondence on September 15, 2022. The Government responded on November 10, 2022 regarding the proposed settlement methodology. On January 10, 2023, the CSR Plaintiffs responded to the Government's letter. The parties participated in conference calls on Thursday, January 19, 2023, and Friday, February 24, 2023 to discuss the latest settlement proposal. Discussion among the parties and stakeholders has been productive and continued, including, e.g., Plaintiffs requesting further data from the Government. Plaintiffs anticipate sending further correspondence to the Government shortly. Further, both Government counsel and Class counsel will need to consult with numerous stakeholders before moving forward with any proposal. The parties are also working together to present the Court with a joint stipulation for entry of partial final judgment as to CSR damages the Government owes Plaintiff for 2017 in this case.

Good cause exists for the Court to continue the stay of this case. The parties are aware that this negotiation process has been a long one. But they maintain that the number of stakeholders, and the complexity of a global resolution, necessitates the careful back-and-forth that has thus far made progress on a potential resolution. For this reason, the parties respectfully request that the stay continue—if a resolution is possible, it will conserve judicial resources not only in this proceeding but in the approximately 25 proceedings currently before the Court. To this end, the parties propose that they file a status report by May 12, 2023, in which the parties will update the

Court on these efforts.

DATED: March 10, 2023

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Respectfully submitted,

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